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**DISTRICT IV**

December 20, 2018

*To:*

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You are hereby notified that the Court has entered the following opinion and order:

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2017AP2271-CR

State of Wisconsin v. Timothy L. Coleman (L.C. # 2013CF1360)

Before Sherman, Blanchard, and Fitzpatrick, JJ.

**Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).**

Timothy Coleman, pro se, appeals a circuit court order that denied Coleman's petition for sentence adjustment. Based upon our review of the briefs and record, we conclude at conference

that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2015-16).<sup>1</sup>  
We summarily affirm.

In October 2013, Coleman was convicted of possession of narcotic drugs and sentenced to twelve months in jail. Because the jail sentence was imposed consecutive to Coleman's prison sentence in another case, the court ordered that the jail sentence be served in prison. *See* WIS. STAT. § 973.03(2). In September 2017, Coleman petitioned for sentence adjustment as to his twelve-month jail sentence in this case. The circuit court denied the petition on grounds that Coleman's jail sentence was not eligible for sentence adjustment.

An inmate who is serving a bifurcated prison sentence imposed under WIS. STAT. § 973.01 may petition for sentence adjustment after serving the applicable percentage of the initial confinement portion of the sentence. *See* WIS. STAT. § 973.195(1r)(a). However, sentence adjustment is available only for bifurcated prison sentences imposed under § 973.01(2), consisting of a term of initial confinement and a term of extended supervision. *See* §§ 973.195(1r)(a) and 973.01(2).

Coleman contends that his twelve-month jail sentence is eligible for sentence adjustment under WIS. STAT. § 973.195(1r)(a) because the jail sentence was imposed consecutive to Coleman's prison sentence. Coleman argues that his consecutive sentences are computed as one continuous sentence under WIS. STAT. § 302.113(4), and that therefore his jail sentence qualifies as a bifurcated sentence under § 973.195(1r)(a). He cites *State v. Harris*, 2011 WI App 130, 337 Wis. 2d 222, 805 N.W.2d 386, and *State v. Anderson*, 2015 WI App 92, 366 Wis. 2d 147, 873

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

N.W.2d 82, for the proposition that consecutive sentences are computed as one continuous bifurcated sentence under WIS. STAT. §§ 302.113(4) and 973.01. Coleman contends that it follows that his twelve-month jail sentence is eligible for sentence adjustment under § 973.195(1r)(a) as part of one continuous bifurcated sentence imposed under § 973.01. We are not persuaded.

WISCONSIN STAT. § 973.195(1r)(a) expressly provides that “[i]f an inmate is subject to more than one sentence imposed under this section, the sentences shall be treated individually for purposes of sentence adjustment under this subsection.” Thus, by the statute’s plain terms, Coleman’s twelve-month jail sentence must be treated individually when determining whether the sentence is eligible for sentence adjustment. Because the twelve-month jail sentence was not imposed as a bifurcated sentence under WIS. STAT. § 973.01(1), it is not eligible for sentence adjustment.

Neither *Harris* nor *Anderson* support Coleman’s argument that his prison and jail sentences must be treated as one continuous bifurcated sentence for sentence adjustment purposes. In *Harris*, 337 Wis. 2d 222, ¶1, we held that Harris was not entitled to good time credit toward his jail sentence because his prison and jail sentences were treated as one continuous prison sentence under WIS. STAT. § 302.113(4). We stated that Harris’s jail and prison sentences “must be considered together” and “computed as one continuous sentence,” which “put[] them squarely under the purview of WIS. STAT. § 973.01” and rendered Harris ineligible for good time credit. *Id.*, ¶9. However, *Harris* did not involve a petition for sentence adjustment under WIS. STAT. § 973.195(1r)(a). As set forth above, the sentence adjustment statute expressly requires that each sentence is to be treated individually. Accordingly, *Harris* is inapposite.

In *Anderson*, 366 Wis. 2d 147, ¶¶1-3, 13-14, we held that Anderson’s enhanced misdemeanor prison term was a sentence imposed under WIS. STAT. § 973.01 for sentence adjustment purposes. Anderson was convicted of enhanced misdemeanors and sentenced to prison, with terms of initial confinement and extended supervision under § 973.01. *Id.* Because Anderson did not receive a jail term, that case as well is inapposite.

In sum, the sentence adjustment statute explicitly requires that each sentence “shall be treated individually” in determining whether sentence adjustment is available. Sentence adjustment is available only to sentences imposed as bifurcated sentences. Coleman’s jail sentence, considered individually, is not a bifurcated sentence.

Therefore,

IT IS ORDERED that the order is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*